

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2003**

AGENDA ITEM NO.: 11

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – Site Solutions, L.L.C., 104 Old Spring Way**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: Site Solutions, L.L.C. is petitioning for a Conditional Use Permit at 104 Old Spring Way to allow the extension of an existing transmission tower for the collocation of cellular antennas and the construction of a telecommunications cabinet in an R-1, Single-Family Residential District. The Planning Division (PD) recommended approval of the CUP because:

- Petition agrees with the Comprehensive Plan, which permits public and institutional uses in a Low Density Residential area.
- Petition agrees with Zoning Ordinance in that a telecommunications facility is a permitted use in an R-1, Single-Family Residential District upon approval of a Conditional Use Permit by the City Council.
- Petition proposes the use of an existing transmission tower to collocate a telecommunications facility and will incorporate a stealth design.

Section 35.1-15(f) of the Zoning Ordinance states: "In approving a conditional use permit City Council may impose any conditions which it deems necessary or appropriate."

PRIOR ACTION(S):

April 23, 2003: Planning Division recommended approval of the CUP.
Planning Commission recommended approval (6-0, with one member absent) of the CUP with the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Burns & McDonnell, dated April 4, 2003.
2. The building will meet all building code requirements at determined by the Inspections Division.
3. The "fort worth" extension, building, and fence will be of "stealth" design, as agreed to by the applicant and shown on the revised plans dated April 4, 2003.
4. Landscaping will be carried out as shown in the revised Landscape Plan dated April 4, 2003.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253
Tom Martin / 847-1508, ext. 226

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan
- Photograph

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO SITE SOLUTIONS, L.L.C. FOR USE OF THE PROPERTY AT 104 OLD SPRING WAY TO ALLOW THE EXTENSION OF A EXISTING TRANSMISSION TOWER FOR COLLOCATION OF TELECOMMUNICATIONS FACILITIES AND THE CONSTRUCTION OF A TELECOMMUNICATIONS CABINET BUILDING BE, AND THE SAME IS HEREBY, APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS.

1. The property will be developed in substantial compliance with the site plan prepared by Burns & McDonnell, dated April 4, 2003.
2. The building will meet all building code requirements as determined by the Inspections Division.
3. The "fort worth" extension, building, and fence will be of "stealth" design, as agreed to by the applicant and shown on the revised plans dated March 14, 2003.
4. Landscaping will be carried out as shown in the revised Landscape Plan, dated March 14, 2003.

Adopted:

Certified:

Clerk of Council

089L

To: Planning Commission
From: Planning Division
Date: April 23, 2003
Re: **CONDITIONAL USE PERMIT (CUP): 104 Old Spring Way**

I. PETITIONER

Site Solutions, LLC, representing Ohio State Cellular Phone Company, Inc. (d/b/a United States Cellular) and acting as agent for Alltel Communications of VA No. 1, Inc.; 4502 Starkey Road, SW, Suite 112, Roanoke, VA 24015

Representatives: Mr. Gregory S. Tully, Site Solutions, LLC, 4502 Starkey Road, SW, Suite 112, Roanoke, VA 24015; Mr. William Tucker, U.S. Cellular, 5512 Peters Creek Road, N.W., Suite D, Roanoke, VA 24019

II. LOCATION

The subject property is a 0.577-acre parcel located at 104 Old Spring Way.

Property Owners: Alltel Communications of VA, No. 1, Inc., 4505 Columbus Street, Suite 104, Virginia Beach, VA 23462

III. PURPOSE

The purpose of this petition is to allow the extension of an existing transmission tower to accommodate cellular antennas and to allow the placement of an associated telecommunications cabinet.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan which permits public and institutional uses in a Low Density Residential Area.
- Petition agrees with the Zoning Ordinance in that a telecommunication facility is a permitted use in an R-1, Single-Family Residential District upon approval of a Conditional Use Permit by the City Council.
- Petition proposes the use of an existing transmission tower to collocate a telecommunications facility and will incorporate a stealth design.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Low Density Residential Use for the subject property. Low Density Residential Areas are dominated by single-family housing at densities of up to four units per acre. Additional uses may include public and institutional uses compatible in scale with single-family residential homes. The pre-existing transmission tower now on the property is beyond this scale. However, the extension that is the subject of this application is not out of scale. The proposed telecommunications cabinet will be similar in size and appearance to the one currently located on the site and will be of an appropriate scale for the area.
2. **Zoning.** The subject property was annexed into the City in 1958. The property was zoned R-1, Residential in 1960, and continued as R-1, Low Density Single-Family Residential when the City adopted the most recent Zoning Ordinance in 1978. The nearest property not zoned R-1, is across Old Boonsboro Road and is zoned B-1, Limited Business. A small real estate office, a branch bank, and a City fire station are located in this B-1 District.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed extension or equipment building.
4. **Surrounding Area.** There have been four items requiring City Council approval in the immediate area since 1995.
 - A CUP requested by Peakland United Methodist Church for use of an existing structure for a Sunday School (12/1995)

- A CUP requested by Peakland United Methodist Church for the addition of 26 additional parking spaces (8/1996)
 - A CUP requested by Peakland United Methodist Church for an education building, columbarium, and parking lot (5/2002)
 - A CUP requested by C.F.W. Communications for the collocation of telecommunications equipment on an existing transmission tower in an R-4, Medium-High Multifamily Residential District, at 4715 Boonsboro Road (4/1997)
5. **Site Description.** The subject property is bounded to the north by a parcel with two residential structures, to the east and west by vacant parcels, and to the south across Old Spring Way by a residence that fronts on Old Boonsboro Road. The only structure on Old Spring Way (except for the subject property) is a residence at 129 Old Spring Way. The transmission tower which is the subject of this petition is one in a line that stretches from the James River on the east across the western portion of the City until it forms the boundary between the City and Bedford County.
 6. **Proposed Use of Property.** The purpose of the CUP is to allow the construction of a “Fort Worth” extension to the top of an existing 123-foot transmission tower owned by American Electric Power and for the construction of an unmanned telephone equipment station, measuring approximately 12 feet by 24 feet, immediately adjacent to the tower. The extension will increase the height of the tower by 15 feet to 138 feet. The proposed extension would accommodate the needs of US Cellular for coverage in this area. The property for the station and connections to the tower will be leased by US Cellular from the property owner. The entire leased area will cover approximately 1,600 square feet.
 7. **Traffic and Parking.** Once the extension is added and the station building constructed, little or no traffic will result from this facility. Any vehicles at the site for maintenance purposes will be able to park in the driveway area. The City Traffic Engineer had no comments of concern regarding the proposed use.
 8. **Storm Water Management.** A storm water management plan and narrative will be required for this project because disturbed areas will exceed 1,000 square feet. A Stormwater Maintenance Agreement will also be required, including a performance bond.
 9. **Impact.** A series of transmission towers and the wires they support already have a major impact on the visual quality of the immediately surrounding neighborhood. The visual impact of the extension to the subject transmission tower will be minimal; the applicant has agreed to paint the extension a color (light blue or white) that will enable it to blend into the sky better than a galvanized metal extension would. The applicant has submitted revised drawings of the telecommunication cabinet showing a brick façade and a peaked roof, similar to the other building on the site. The applicant has agreed to delete the chain link fence with three strands of barbed wire on top and replace it with a three-foot picket fence along the front of the property. The fence will also extend approximately 20 feet along the sides of the property.

The property currently has a number of trees on the site. Those that must be removed to allow construction of the facility will be replanted or replaced elsewhere on the site. The applicant has been asked to review the location of the trench to see if moving it could spare some of the trees. In addition, three trees now on the site that are dead will be replaced.
 - **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on April 1, 2003. Comments related to the proposed use were minor in nature and have been or will be addressed prior to final site plan approval.
 10. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary or appropriate in approving a CUP.
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VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of US Cellular for a conditional use permit at 104 Old Spring Way to allow the extension of an existing transmission tower for collocation of telecommunications facilities and the construction of a telephone station building on the subject property in an R-1 District subject to the following conditions:

1. **The property will be developed in substantial compliance with the site plan prepared by Burns & McDonnell, dated April 4, 2003.**

2. The building will meet all building code requirements as determined by the Inspections Division.
3. The “fort worth” extension, building, and fence will be of “stealth” design, as agreed to by the applicant and shown on the revised plans dated March 14, 2003.
4. Landscaping will be carried out as shown in the revised Landscape Plan, dated March 14, 2003.

This matter is respectfully offered for your consideration.

William T. Martin
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. Robert D. DeJarnette, Fire Marshal
Mr. J. Lee Newland, Director of Engineer
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Official
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Gregory S. Tully, Petitioner/Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
(see attached map)
2. **Vicinity Proposed Land Use**
(see attached map)
3. **Site Plan**
(see attached site plans)
4. **Narrative**
(see attached narrative)
5. **Plat dated 1992**
(see attached plat)

THESE MINUTES HAVE NOT BEEN REVIEWED NOR APPROVED BY THE PLANNING COMMISSION

Ohio State Cellular Phone Company for a Conditional Use Permit at 104 Old Spring Way to increase the height of an existing tower by fifteen (15) feet and construct an associated telecommunications cabinet in an R-1, Single-Family Residential District.

Mr. Martin explained that the existing telecommunications facilities at this site were approved in 1999, which was prior to amending the current Telecommunications Ordinance. He explained that the Planning Division felt that the visual impact to the area was already there and this project would be an opportunity to have additional landscaping added and a new, stealth cabinet built. He said the Planning Division recommends approval of the petition.

Mr. Gregory S. Tulley, U. S. Cellular, represented the petition. Mr. Tulley said they had worked hard with the Planning staff and tried to accommodate their recommended changes to the site plan. He added that they had addressed the comments from the TRC and had gone a long way to promote the City's goals of co-locating on existing structures. He said they had incorporated design modifications that should improve on the stealthing solutions that were applied to the project in 1999.

Mr. Robert W. Furr, 215 Nottingham Circle, Lynchburg, addressed the Commission. Mr. Furr said his wife owns the remaining land in the Old Spring Way subdivision. He said they were not opposing the petition, but did feel that the zoning on his wife's property needed to be changed. He said they would not be able to develop the property into upscale single family homes like they anticipated when she originally purchased the property.

Mr. Martin told Mr. Furr that he should contact the Planning office to discuss what an appropriate solution would be for that site.

Commissioner Wilkins asked what the current maximum height for cell towers.

Mr. Martin responded that for a new tower in a residential district the maximum height was 50 feet.

Chair Dahlgren said it is nice to see cell companies take advantage of existing structures.

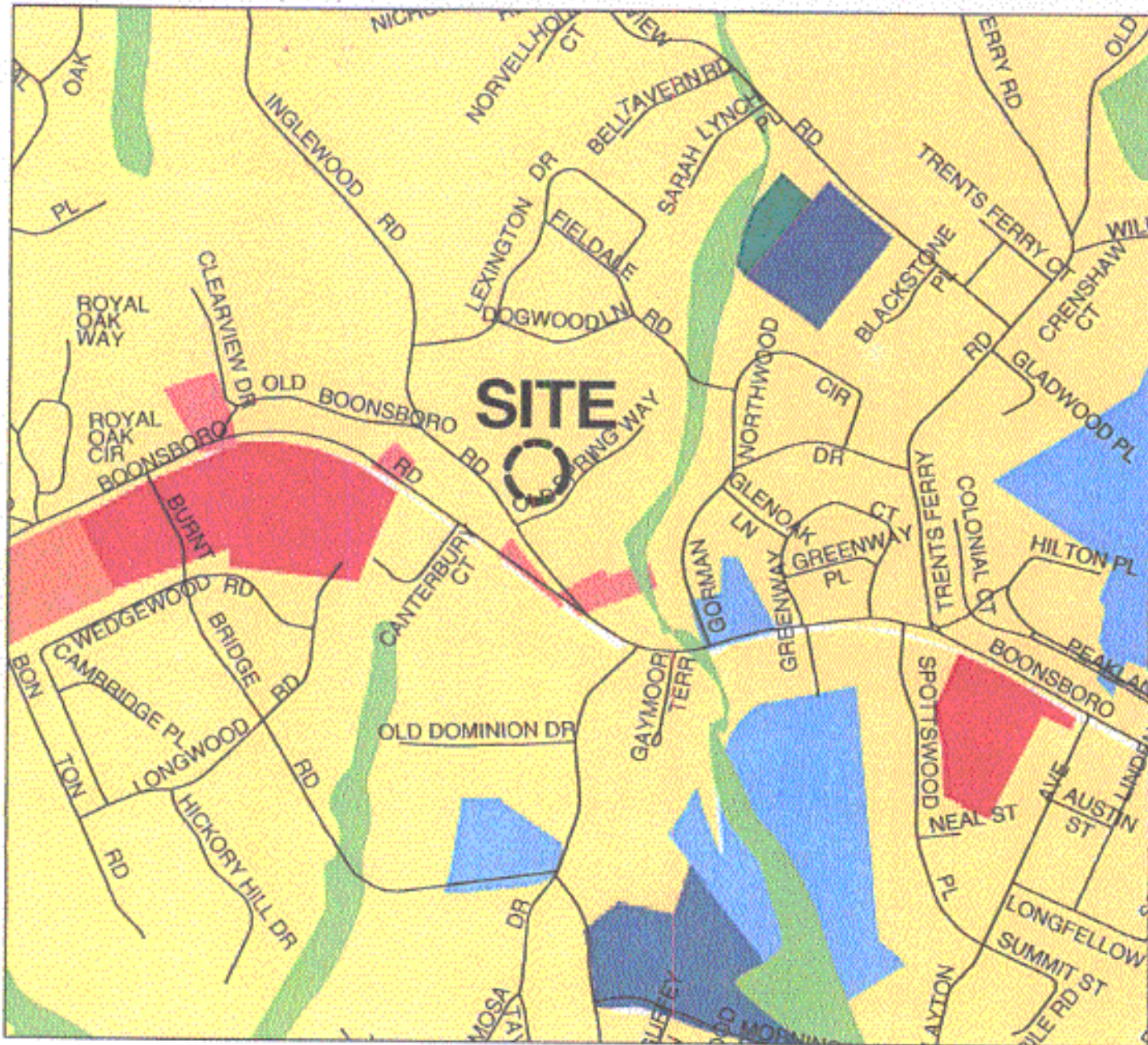
Commissioner Flint said this was a good trade off. He said when he drove by the site he only saw what was at ground level and added that the project would be better after it is complete.

After discussion, Commissioner Wilkins made the following motion, which was seconded by Commissioner Moore and passed by the following vote:

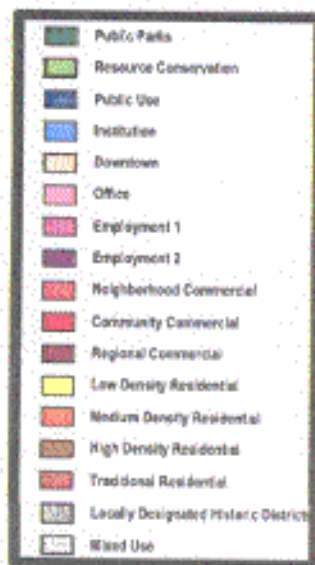
"That the Planning Commission recommends to the City Council approval of the petition of US Cellular for a conditional use permit at 104 Old Spring Way to allow the extension of an existing transmission tower for collocation of telecommunications facilities and the construction of a telephone station building on the subject property in an R-1 District subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Burns & McDonnell, dated April 4, 2003.
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4. Landscaping will be carried out as shown in the revised Landscape Plan, dated March 14, 2003."

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins	6
NOES:		0
ABSTENTIONS:		0



OHIO STATE CELLULAR 104 OLD SPRING WAY LAND USE PLAN



OHIO STATE CELLULAR PHONE TOWER

104 Old Spring Way
Vol. Map # 182-11-002
Conditional Use Request
Petitioner: Ohio State Cellular

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property

200 ft Radius

